

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

Pursuant to the order of the Court en banc of the United States District Court for the Western District of Missouri, a pretrial conference was held in the above-entitled cause before me on August 16, 2006. Defendant Michael Smith appeared in person and with appointed counsel Anita Burns. The United States of America appeared by Assistant United States Attorney Bruce Clark.

1. BACKGROUND

On April 5, 2006, an indictment was returned charging Defendant with one count of being a felon in possession of a firearm, in violation of 18 U.S.C. §§ 922(g)(1) and 924(a)(2). The following matters were discussed and action taken during the pretrial conference:

II. *TRIAL COUNSEL*

Mr. Clark announced that he will be the trial counsel for the government. The case agent to be seated at counsel table is Randy Roberts, Special Agent, ATF.

Ms. Burns announced that she will be the trial counsel for Defendant Smith; Ron Ninemire will assist at trial.

III. OUTSTANDING MOTIONS

Defendant's Motion in Limine (Doc. No. 26) is currently pending.

IV. TRIAL WITNESSES

Mr. Clark announced that the government intends to call five to six witnesses with stipulations during the trial.

Ms. Burns announced that Defendant Smith intends to call two witnesses during the trial. Defendant Smith may testify.

V. TRIAL EXHIBITS

Mr. Clark announced that the government will offer approximately ten exhibits in evidence during the trial.

Ms. Burns announced that Defendant Smith will offer approximately nine exhibits in evidence during the trial.

VI. DEFENSES

Ms. Burns announced that Defendant Smith will rely on the defense of general denial.

VII. POSSIBLE DISPOSITION

Ms. Burns stated this case is definitely for trial.

VIII. STIPULATIONS

Stipulations have been signed regarding Defendant's prior felony conviction and the interstate nexus of the firearm.

IX. TRIAL TIME

Counsel were in agreement that this case will take one and a half days to try.

X. EXHIBIT LIST, VOIR DIRE AND INSTRUCTIONS

The U. S. Magistrate Judge ordered:

That, in addition to the requirements of the Stipulations and Orders filed May 16, 2006, counsel for each party file and serve a list of exhibits he or she intends to offer in evidence at the trial of this case on the form entitled Exhibit Index and have all available exhibits premarked using the stickers provided by the Clerk of Court by **Wednesday, August 16, 2006**;

That counsel for each party file and serve requested jury voir dire examination questions by or before noon, **Wednesday, August 23, 2006**;

That counsel for each party file and serve, in accordance with the requirements of Local Rule 51.1, requested jury instructions by or before noon, **Wednesday, August 23, 2006**. Counsel are requested to provide proposed jury instructions in both hard copy form, as required by Local Rule 51.1, and, if available to counsel, 3 and 1/2 inch computer disk in a form compatible with WordPerfect 9.0, 10.0, or 11.0.

XI. UNUSUAL QUESTIONS OF LAW

No additional motions in limine are anticipated. There are no unusual questions of law.

XII. TRIAL SETTING

All counsel and the defendant were informed that this case will be listed for trial on the joint criminal jury trial docket which commences on August 28, 2006.

/s/ *Robert E. Larsen*
ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
August 16, 2006

cc: The Honorable Dean Whipple
Mr. Bruce Clark
Ms. Anita Burns
Mr. Jeff Burkholder